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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ORIGINAL

Arizona Corporation Commission

DOCKETED

APR 17 2014

DOCKETED BY

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

In the Matter of:

Docket No. S-20867A-12-0459

TRI-CORE COMPANIES, LLC, an
Arizona limited liability company,

MOTION TO DISMISS

TRI-CORE MEXICO LAND
DEVELOPMENT, LLC, an Arizona
limited liability company,

TRI-CORE BUSINESS DEVELOPMENT,
LLC, an Arizona limited liability company,

(Assigned to Administrative Law Judge
Marc E. Stern)

ERC COMPACTORS, LLC, an Arizona
limited liability company,

ERC INVESTMENTS, LLC, an Arizona
limited liability company,

C&D CONSTRUCTION SERVICES,
INC., a Nevada corporation,

PANGAEA INVESTMENT GROUP,
LLC, an Arizona limited liability company,
d/b/a Arizona Investment Center,

JASON TODD MOGLER, an Arizona
resident,

BRIAN N. BUCKLEY and CHERYL
BARRETT BUCKLEY, husband and wife,

CASIMER POLANCHEK, an Arizona
resident,

NICOLE KORDOSKY, an Arizona
resident,

Respondents.

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

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1
2 Respondents, TRI-CORE COMPANIES, LLC, TRI-CORE BUSINESS
3 DEVELOPMENT, LLC, and JASON TODD MOGLER (collectively, the "Respondents"),
4 through JASON TODD MOGLER, individually, and as manager of TRI-CORE
5 COMPANIES, LLC and TRI-CORE BUSINESS DEVELOPMENT, LLC, respectfully
6 request the Commission to dismiss the hearing.

7 Don't ask, do. Noah did this for God. Christians would agree that this would be
8 the right action.

9
10 But, should this be applied to state agencies and governing bodies? What if the
11 Arizona constitution doesn't support the action? Don't do, ask.

12
13 Respectfully, the lawyer for the state has asked a great many things. In terms of
14 production and effort on this side of the transaction, but not a single one of my
15 lawyers has asked is the state allowed to be asking these questions. IS this a lawful
16 assembly under the Arizona Constitution?

17
18 Respectfully, I have delivered some 29,000+ documents and spent tens of thousands
19 of dollars to lawyers, who said that I needed to defend. And, who later said it is not a
20 fight you're going to win, after fees were exhausted.

21
22 I disagree with the first group of lawyers. Sure the court allows HEARSAY but
23 justice isn't blind at least I hope not.

24
25 Respectfully, I have attended the time requested and required and I have sat through
26 days of testimony, documents and have weathered the internet postings. And, if I am
27 required to defend myself on May 6th, 7th and 8th I will come with the truth, witnesses
28 and evidence to support the truth.

1 As I started this process a year and many months ago. I had no understanding of the
2 laws of our great state of Arizona. And, I make no claim to even being
3 knowledgeable in this area of the law or any area of law.
4

5 But the questions that keeps coming up in my mind is, does the Arizona Corporation
6 Commission have the legal authority to be asking for anything from a private limited
7 liability company (llc) conducting private business transactions. Such as in this case a
8 limited liability company (llc) using private placement memorandums where the
9 LENDER is identified as a LENDER. And, the notes to create the LOAN
10 AGREEMENT are non-transferable from a LIMITED LIABILITY COMPANY.
11

12 I turn to what I will call exhibit A1 and A2 in the evidence, which is the Arizona
13 Corporation Commission website and the Arizona Constitution website.
14

15 <http://www.azcc.gov/Divisions/Administration/about.asp>
16

17 *Article 15 of the Arizona Constitution establishes the Arizona Corporation*
18 *Commission. Only 7 states have constitutionally formed Commissions. Arizona is one*
19 *of only 13 states with elected Commissioners. In the 37 other states, Commissioners*
20 *are appointed by either the governor or the legislature.*
21

22 So, then I went a little further in my research and went to the Arizona Constitution
23 which can be found online here:
24

25 <http://www.azleg.gov/Constitution.asp?Article=15>
26
27
28

And then if you go to section four:

<http://www.azleg.gov/FormatDocument.asp?inDoc=/const/15/4.htm>

4. Power to inspect and investigate

*Section 4. The corporation commission, and the several members thereof, shall have power to inspect and investigate the property, books, papers, business, methods, and affairs of **any corporation whose stock shall be offered for sale to the public and of any public service corporation doing business within the state**, and for the purpose of the commission, and of the several members thereof, shall have the power of a court of general jurisdiction to enforce the attendance of witnesses and the production of evidence by subpoena, attachment, and punishment, which said power shall extend throughout the state. Said commission shall have power to take testimony under commission or deposition either within or without the state.*

The companies in questions are neither a corporation, nor have they sold stock to the public and they certainly are not public service corporations.

Maybe no one has ever asked the question or maybe it's what I've heard from all attorneys time and time again that it's the State and they can do what they want to do.

I will be prepared in the event that this request to dis-missed and I won't ask for another continuance, but I felt it necessary to ask this request for dismissal based on the Arizona Constitution.

I am truly not being difficult just asking the unasked question that should have been asked on day one.

I ask this RESPECTFULLY and HUMBILY from the court to dismiss this case.

Thank you.

1 This motion is made in good faith and is not intended to cause any unnecessary
2 delay.

3 Dated this __17th__ day of April, 2014.

4
5
6 By 

7 Jason Todd Mogler, individually, and as
8 Manager of Tri-Core Companies, LLC and Tri-
9 Core Business Development, LLC
10 7014 N. 15th Street
11 Phoenix, Arizona 85020
12 *Individual Respondent and Representative for*
13 *Corporate Respondents*

14 ORIGINAL AND 13 COPIES of the foregoing filed April __18th__, 2014, with:

15 Docket Control
16 Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 COPIES of the foregoing mailed April __18th__, 2014, to:

20 Honorable Marc E. Stern
21 Administrative Law Judge
22 Arizona Corporation Commission / Hearing Division
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 Stacey L. Luedtke
26 1300 W. Washington, 3rd Floor
27 Phoenix, Arizona 85007

28 Irma Huerta, President
C&D Construction Services, Inc.
1520 Red Rock Street
Las Vegas, New Mexico 89146

1 Guy Quinn, Jr.
2 1129 Stonegate Ct.
3 Bartlett, Illinois 60103

4 ERC Compactors LLC
5 c/o ERC of Chicago, LLC
6 Attention: Guy Quinn, Jr., Manager
7 625-D Railroad Street
8 Montgomery, Illinois 60538

9 ERC Investments LLC
10 c/o ERC of Chicago, LLC
11 Attention: Guy Quinn, Jr., Manager
12 625-D Railroad Street
13 Montgomery, Illinois 60538

14 Paul Roshka, Esq.
15 Jennifer A. Stevens, Esq.
16 ROSHKA DeWULF & PATTEN, PLC
17 One Arizona Center
18 400 East Van Buren Street, Suite 800
19 Phoenix, Arizona 85004

20 American Civil Liberties Union of Arizona
21 P.O. Box 17148
22 Phoenix, AZ 85011

Background and Organization

Background

Article 15 of the Arizona Constitution establishes the Arizona Corporation Commission. Only 7 states have constitutionally formed Commissions. Arizona is one of only 13 states with elected Commissioners. In the 37 other states, Commissioners are appointed by either the governor or the legislature.

In most states, the Commission is known as the Public Service Commission or the Public Utility Commission. Our Commission, however, has responsibilities that go beyond traditional public utilities regulation. These additional roles include facilitating the incorporation of businesses and organizations, securities regulation and railroad/pipeline safety.

By virtue of the Arizona Constitution, the Commissioners function in an Executive capacity, they adopt rules and regulations thereby functioning in a Legislative capacity, and they also act in a Judicial capacity sitting as a tribunal and making decisions in contested matters.

The Commission is required by the Arizona Constitution to maintain its chief office in Phoenix and it is required by law to conduct monthly meetings.

Organization

In November 2000, the voters of Arizona approved a measure, placed on the ballot by the State Legislature, which expanded the size of the Commission from three to five Commissioners. The measure also changed the term of office from one six-year term to a four-year term with the possibility of reelection to one additional (consecutive) four-year term. The initial terms of the two new seats are for two years. In the case of a vacancy, the Governor appoints a Commissioner to serve until the next general election. The Commissioners choose one member from among themselves to serve as Chairman.

The Commissioners have the ultimate responsibility for final decisions on granting or denying rate adjustments, enforcing safety and public service requirements, and approving securities matters.

Executive Director

The Director of the Commission Staff is the Executive Director. Jodi Jerich serves at the pleasure of the Commissioners, and is responsible to the Commissioners for the day to day operations of all Divisions. Section 40-105, Arizona Revised Statutes, outlines the powers and duties of the Executive Director's position.

Divisions

The Commission staff is organized into nine Divisions. Each Division is headed by a Director who reports to the Executive Director.

Administration

The **Administration Division** plans, coordinates and directs the administrative and fiscal activities necessary to support the Commissioners and all Divisions of the Commission. The Division also provides information to the general public and media on all Commission activities.

Broadcast Services

The **Broadcast Services Division** is responsible for the television broadcast production of all meetings and hearings of the Commission for public viewing and for archiving. Additionally, the Division produces video tutorials and short educational segments on the many varied duties of the Commission. The Division is also responsible for the Commission's website.

Corporations

The **Corporations Division** approves for filing all articles of incorporation for Arizona businesses; all articles of organization for limited liability companies; grants authority to foreign corporations to transact business in this state; propounds interrogatories when necessary to determine a company's lawful purpose; and revokes the corporate charters of those corporations which choose to not comply with Arizona law. The Division collects from every corporation an annual report which reflects its current status, business, and financial condition; maintains this information in a format conducive to public access; responds to public questions concerning Arizona businesses and corporation law; and responds to the needs of the business sector by disseminating whatever information is mission-critical to them in the most expedient and cost-effective manner possible.

Arizona State Legislature

Bill Number Search: 

Fifty-first Legislature - Second Regular Session

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Section 4. The corporation commission, and the several members thereof, shall have power to inspect and investigate the property, books, papers, business, methods, and affairs of any corporation whose stock shall be offered for sale to the public and of any public service corporation doing business within the state, and for the purpose of the commission, and of the several members thereof, shall have the power of a court of general jurisdiction to enforce the attendance of witnesses and the production of evidence by subpoena, attachment, and punishment, which said power shall extend throughout the state. Said commission shall have power to take testimony under commission or deposition either within or without the state.